

Bill No. SCR 1856

Barcode 730918

595-1773-06

Proposed Committee Substitute by the Committee on Rules and Calendar

1 Senate Concurrent Resolution

2 A concurrent resolution adopting Joint Rule One  
3 relating to lobbyist registration and  
4 compensation reporting.

5  
6 WHEREAS, existing Joint Rule One has regulated lobbyist  
7 registration and expenditure reporting, and

8 WHEREAS, the enactment of chapter 2005-359, Laws of  
9 Florida, directed the adoption of rules imposing and  
10 regulating lobbyist registration and compensation reporting,  
11 and

12 WHEREAS, each house of the Legislature has inherent,  
13 independent authority, acting separately or jointly, to  
14 regulate legislative lobbying in each house respectively, and

15 WHEREAS, there is uncertainty about the present effect  
16 of former Joint Rule One, and

17 WHEREAS, the Senate and House of Representatives desire  
18 to resolve uncertainty and jointly implement the statutory  
19 directive for lobbyist registration and compensation  
20 reporting, NOW, THEREFORE,

21  
22 Be It Resolved by the Senate of the State of Florida, the  
23 House of Representatives Concurring:

24  
25 That former Joint Rule One is rescinded and new Joint  
26 Rule One is adopted to read:

27  
28 JOINT RULE ONE  
29 LOBBYIST REGISTRATION AND COMPENSATION REPORTING

30  
31 1.1 Those Required to Register; Exemptions; Committee

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## 1 Appearance Records

2 (1) All lobbyists before the Florida Legislature must  
3 register with the Lobbyist Registration Office in the Division  
4 of Legislative Information Services of the Office of  
5 Legislative Services. Registration is required for each  
6 principal represented.

7 (2) As used in Joint Rule One, unless the context  
8 otherwise requires:

9 (a) "Compensation" means payment, distribution, loan,  
10 advance, reimbursement, deposit, salary, fee, retainer, or  
11 anything of value provided or owed to a lobbying firm,  
12 directly or indirectly, by a principal for any lobbying  
13 activity.

14 (b) "Division" means the Division of Legislative  
15 Information Services within the Office of Legislative  
16 Services.

17 (c) "Legislative action" means introduction,  
18 sponsorship, testimony, debate, voting, or any other official  
19 action on any measure, resolution, amendment, nomination,  
20 appointment, or report of, or any matter that may be the  
21 subject of action by, either house of the Legislature or any  
22 committee thereof.

23 (d) "Lobby" or "lobbying" means influencing or  
24 attempting to influence legislative action or nonaction  
25 through oral or written communication or an attempt to obtain  
26 the goodwill of a member or employee of the Legislature.

27 (e) "Lobbying firm" means any business entity,  
28 including an individual contract lobbyist, that receives or  
29 becomes entitled to receive any compensation for the purpose  
30 of lobbying, where any partner, owner, officer, or employee of  
31 the business entity is a lobbyist. "Lobbying firm" does not

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1 include an entity that has employees who are lobbyists if the  
2 entity does not derive compensation from principals for  
3 lobbying, or such compensation is received exclusively from a  
4 subsidiary corporation of the employer.

5 (f) "Lobbyist" means a person who is employed and  
6 receives payment, or who contracts for economic consideration,  
7 for the purpose of lobbying, or a person who is principally  
8 employed for governmental affairs by another person or  
9 governmental entity to lobby on behalf of that other person or  
10 governmental entity. An employee of the principal is not a  
11 "lobbyist" unless the employee is principally employed for  
12 governmental affairs. "Principally employed for governmental  
13 affairs" means that one of the principal or most significant  
14 responsibilities of the employee to the employer is overseeing  
15 the employer's various relationships with government or  
16 representing the employer in its contacts with government. Any  
17 person employed by the Governor, the Executive Office of the  
18 Governor, or any executive or judicial department of the state  
19 or any community college of the state who seeks to encourage  
20 the passage, defeat, or modification of any legislation by  
21 personal appearance or attendance before the House of  
22 Representatives or the Senate, or any member or committee  
23 thereof, is a lobbyist.

24 (g) "Payment" or "salary" means wages or any other  
25 consideration provided in exchange for services, but does not  
26 include reimbursement for expenses.

27 (h) "Principal" means the person, firm, corporation,  
28 or other entity that has employed or retained a lobbyist. When  
29 an association has employed or retained a lobbyist, the  
30 association is the principal; the individual members of the  
31 association are not principals merely because of their

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1 membership in the association.

2 (3) For purposes of this rule, the terms "lobby" and  
3 "lobbying" do not include any of the following:

4 (a) Response to an inquiry for information made by any  
5 member, committee, or staff of the Legislature.

6 (b) An appearance in response to a legislative  
7 subpoena.

8 (c) Advice or services that arise out of a contractual  
9 obligation with the Legislature, a member, a committee, any  
10 staff, or any legislative entity to render the advice or  
11 services where such obligation is fulfilled through the use of  
12 public funds.

13 (d) Representation of a client before the House of  
14 Representatives or the Senate, or any member or committee  
15 thereof, when the client is subject to disciplinary action by  
16 the House of Representatives or the Senate, or any member or  
17 committee thereof.

18 (4) For purposes of registration and reporting, the  
19 term "lobbyist" does not include any of the following:

20 (a) A member of the Legislature.

21 (b) A person who is employed by the Legislature.

22 (c) A judge who is acting in that judge's official  
23 capacity.

24 (d) A person who is a state officer holding elective  
25 office or an officer of a political subdivision of the state  
26 holding elective office and who is acting in that officer's  
27 official capacity.

28 (e) A person who appears as a witness or for the  
29 purpose of providing information at the written request of the  
30 chair of a committee, subcommittee, or legislative delegation.

31 (f) A person employed by any executive or judicial

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1 department of the state or any community college of the state  
2 who makes a personal appearance or attendance before the House  
3 of Representatives or the Senate, or any member or committee  
4 thereof, while that person is on approved leave or outside  
5 normal working hours, and who does not otherwise meet the  
6 definition of lobbyist.

7 (5) When a person, whether or not the person is  
8 registered as a lobbyist, appears before a committee of the  
9 Legislature, that person must submit a Committee Appearance  
10 Record as required by the respective house.

11 1.2 Method of Registration

12 (1) Each person who is required to register must  
13 register on forms furnished by the Lobbyist Registration  
14 Office, on which that person must state, under oath, that  
15 person's full legal name, business address and telephone  
16 number, the name and business address of each principal that  
17 person represents, and the extent of any direct business  
18 association or partnership that person has with any member of  
19 the Legislature. In addition, if the lobbyist is a partner,  
20 owner, officer, or employee of a lobbying firm, the lobbyist  
21 must state the name, address, Federal Employer's  
22 Identification Number (FEIN), contact name, and telephone  
23 number of each lobbying firm to which the lobbyist belongs.  
24 The Lobbyist Registration Office or its designee is authorized  
25 to acknowledge the oath of any person who registers in person.  
26 Any changes to the information provided in the registration  
27 form must be reported to the Lobbyist Registration Office in  
28 writing within 15 days on forms furnished by the Lobbyist  
29 Registration Office.

30 (2) Any person required to register must do so with  
31 respect to each principal prior to commencement of lobbying on

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1 behalf of that principal. At the time of registration, the  
2 registrant shall provide a statement on a form provided by the  
3 Lobbyist Registration Office, signed by the principal or  
4 principal's representative that the registrant is authorized  
5 to represent the principal. On the authorization statement the  
6 principal or principal's representative shall also identify  
7 and designate the principal's main business pursuant to a  
8 classification system approved by the Office of Legislative  
9 Services that shall be the North American Industry  
10 Classification System (NAICS) six-digit numerical code that  
11 most accurately describes the principal's main business.

12 (3) Any person required to register must renew the  
13 registration annually for each calendar year.

14 (4) A lobbyist shall promptly send a notice to the  
15 Lobbyist Registration Office on forms furnished by the  
16 Lobbyist Registration Office, canceling the registration for a  
17 principal upon termination of the lobbyist's representation of  
18 that principal. A notice of cancellation takes effect the day  
19 it is received by the Lobbyist Registration Office.

20 Notwithstanding this requirement, the Lobbyist Registration  
21 Office may remove the name of a lobbyist from the list of  
22 registered lobbyists if the principal notifies the Lobbyist  
23 Registration Office that the lobbyist is no longer authorized  
24 to represent that principal.

25 (5) The Lobbyist Registration Office shall publish on  
26 the first Monday of each regular session and weekly thereafter  
27 through the end of that session a compilation of the names of  
28 persons who have registered and the information contained in  
29 their registrations.

30 (6) The Lobbyist Registration Office shall retain all  
31 original documents submitted under this rule.

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1           (7) A person who is required to register under this  
2 rule, or who chooses to register, shall be considered a  
3 lobbyist of the Legislature for the purposes of sections  
4 11.045, 112.3148, and 112.3149, Florida Statutes.

5           1.3 Registration Costs; Exemptions

6           (1) To cover the costs incurred in administering this  
7 joint policy, each person who registers under Joint Senate and  
8 House Rule 1.1 must pay an annual registration fee to the  
9 Lobbyist Registration Office. The annual period runs from  
10 January 1 to December 31. These fees must be paid at the time  
11 of registration.

12           (2) The following persons are exempt from paying the  
13 fee, provided they are designated in writing by the agency  
14 head or person designated in this subsection:

15           (a) Two employees of each department of the executive  
16 branch created under chapter 20, Florida Statutes.

17           (b) Two employees of the Fish and Wildlife  
18 Conservation Commission.

19           (c) Two employees of the Executive Office of the  
20 Governor.

21           (d) Two employees of the Commission on Ethics.

22           (e) Two employees of the Florida Public Service  
23 Commission.

24           (f) Two employees of the judicial branch designated in  
25 writing by the Chief Justice of the Florida Supreme Court.

26           (3) The annual fee is up to \$50 per each house for a  
27 person to register to represent one principal and up to an  
28 additional \$10 per house for each additional principal that  
29 the person registers to represent. The amount of each fee  
30 shall be established annually by the President of the Senate  
31 and the Speaker of the House of Representatives. The fees set

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shall be adequate to ensure operation of the lobbyist registration and reporting operations of the Lobbyist Registration Office. The fees collected by the Lobbyist Registration Office under this joint policy shall be deposited in the State Treasury and credited to the Legislative Lobbyist Registration Trust Fund specifically to cover the costs incurred in administering this joint policy.

1.4 Reporting of Lobbying Firm Compensation

(1)(a) Each lobbying firm shall file a compensation report with the division for each calendar quarter during any portion of which one or more of the firm's lobbyists were registered to represent a principal. The report shall include the:

1. Full name, business address, and telephone number of the lobbying firm;

2. Registration name of each of the firm's lobbyists; and

3. Total compensation provided or owed to the lobbying firm from all principals for the reporting period, reported in one of the following categories: \$0; \$1 to \$49,999; \$50,000 to \$99,999; \$100,000 to \$249,999; \$250,000 to \$499,999; \$500,000 to \$999,999; \$1 million or more.

(b) For each principal represented by one or more of the firm's lobbyists, the lobbying firm's compensation report shall also include the:

1. Full name, business address, and telephone number of the principal; and

2. Total compensation provided or owed to the lobbying firm for the reporting period, reported in one of the following categories: \$0; \$1 to \$9,999; \$10,000 to \$19,999; \$20,000 to \$29,999; \$30,000 to \$39,999; \$40,000 to \$49,999; or



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1 \$50,000 or more. If the category "\$50,000 or more" is  
2 selected, the specific dollar amount of compensation must be  
3 reported, rounded up or down to the nearest \$1,000.

4 (c) If the lobbying firm subcontracts work from  
5 another lobbying firm and not from the original principal:

6 1. The lobbying firm providing the work to be  
7 subcontracted shall be treated as the reporting lobbying  
8 firm's principal for reporting purposes under this paragraph;  
9 and

10 2. The reporting lobbying firm shall, for each  
11 lobbying firm identified as the reporting lobbying firm's  
12 principal under paragraph (b), identify the name and address  
13 of the principal originating the lobbying work.

14 (d) The senior partner, officer, or owner of the  
15 lobbying firm shall certify to the veracity and completeness  
16 of the information submitted pursuant to this Rule 1.4, and  
17 certify that no compensation has been omitted from this report  
18 by deeming such compensation as "consulting services," "media  
19 services," "professional services," or anything other than  
20 compensation, and certify that no officer or employee of the  
21 firm has made an expenditure in violation of section 11.045,  
22 Florida Statutes, as amended by chapter 2005-359, Laws of  
23 Florida.

24 (2) For each principal represented by more than one  
25 lobbying firm, the division shall aggregate the  
26 reporting-period and calendar-year compensation reported as  
27 provided or owed by the principal. Compensation reported  
28 within a category shall be aggregated as the arithmetic mean  
29 of the category.

30 (3) The reporting statements shall be filed no later  
31 than 45 days after the end of each reporting period. The four

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1 reporting periods are from January 1 through March 31, April 1  
2 through June 30, July 1 through September 30, and October 1  
3 through December 31, respectively. The statements shall be  
4 rendered in the identical form provided by the respective  
5 houses and shall be open to public inspection. Reporting  
6 statements may be filed by electronic means, when feasible.

7 (4) Reports shall be filed no later than 5 p.m. of the  
8 report due date. However, any report that is postmarked by the  
9 United States Postal Service no later than midnight of the due  
10 date shall be deemed to have been filed in a timely manner,  
11 and a certificate of mailing obtained from and dated by the  
12 United States Postal Service at the time of the mailing, or a  
13 receipt from an established courier company that bears a date  
14 on or before the due date, shall be proof of mailing in a  
15 timely manner.

16 1.5 Failure to File Timely Compensation Report; Notice  
17 and Assessment of Fines; Appeals

18 (1) Upon determining that the report is late, the  
19 person designated to review the timeliness of reports shall  
20 immediately notify the lobbying firm as to the failure to  
21 timely file the report and that a fine is being assessed for  
22 each late day. The fine shall be \$50 per day per report for  
23 each late day, not to exceed \$5,000 per report.

24 (2) Upon receipt of the report, the person designated  
25 to review the timeliness of reports shall determine the amount  
26 of the fine due based upon the earliest of the following:

27 (a) When a report is actually received by the  
28 division.

29 (b) When the report is postmarked.

30 (c) When the certificate of mailing is dated.

31 (d) When the receipt from an established courier

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1 company is dated.

2 (3) Such fine shall be paid within 30 days after the  
3 notice of payment due is transmitted by the person designated  
4 to review the timeliness of reports, unless appeal is made to  
5 the division. The moneys shall be deposited into the  
6 Legislative Lobbyist Registration Trust Fund.

7 (4) A fine shall not be assessed against a lobbying  
8 firm the first time the report for which the lobbying firm is  
9 responsible is not timely filed. However, to receive the  
10 one-time fine waiver, the report for which the lobbying firm  
11 is responsible must be filed within 30 days after notice that  
12 the report has not been timely filed is transmitted by the  
13 person designated to review the timeliness of reports. A fine  
14 shall be assessed for any subsequent late-filed reports.

15 (5) Any lobbying firm may appeal or dispute a fine,  
16 based upon unusual circumstances surrounding the failure to  
17 file on the designated due date, and may request and shall be  
18 entitled to a hearing before the General Counsel of the Office  
19 of Legislative Services, who shall recommend to the President  
20 of the Senate and the Speaker of the House of Representatives,  
21 or their respective designees, that the fine be waived in  
22 whole or in part for good cause shown. The President of the  
23 Senate and the Speaker of the House of Representatives, or  
24 their respective designees, may by joint agreement concur in  
25 the recommendation and waive the fine in whole or in part. Any  
26 such request shall be made within 30 days after the notice of  
27 payment due is transmitted by the person designated to review  
28 the timeliness of reports. In such case, the lobbying firm  
29 shall, within the 30-day period, notify the person designated  
30 to review the timeliness of reports in writing of his or her  
31 intention to request a hearing.

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1           (6) A lobbying firm may request that the filing of a  
2 report be waived upon good cause shown, based on unusual  
3 circumstances. The request must be filed with the General  
4 Counsel of the Office of Legislative Services, who shall make  
5 a recommendation concerning the waiver request to the  
6 President of the Senate and the Speaker of the House of  
7 Representatives. The President of the Senate and the Speaker  
8 of the House of Representatives may, by joint agreement, grant  
9 or deny the request.

10           (7)(a) All lobbyist registrations for lobbyists who  
11 are partners, owners, officers, or employees of a lobbying  
12 firm that fails to timely pay a fine are automatically  
13 suspended until the fine is paid or waived, and the division  
14 shall promptly notify all affected principals and the  
15 President of the Senate and the Speaker of the House of  
16 Representatives of any suspension or reinstatement. All  
17 lobbyists who are partners, owners, officers, or employees of  
18 a lobbying firm are jointly and severally liable for any  
19 outstanding fine owed by a lobbying firm.

20           (b) No such lobbyist may be reinstated in any capacity  
21 representing any principal until the fine is paid or until the  
22 fine is waived as to that lobbyist. A suspended lobbyist may  
23 request a waiver upon good cause shown, based on unusual  
24 circumstances. The request must be filed with the General  
25 Counsel of the Office of Legislative Services who shall, as  
26 soon as practicable, make a recommendation concerning the  
27 waiver request to the President of the Senate and the Speaker  
28 of the House of Representatives. The President of the Senate  
29 and the Speaker of the House of Representatives may, by joint  
30 agreement, grant or deny the request.

31           (8) The person designated to review the timeliness of

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1 reports shall notify the director of the division of the  
2 failure of a lobbying firm to file a report after notice or of  
3 the failure of a lobbying firm to pay the fine imposed.

4 1.6 Open Records

5 All of the lobbyist registration and compensation  
6 reports received by the Lobbyist Registration Office shall be  
7 available for public inspection and for duplication at  
8 reasonable cost.

9 1.7 Records Retention and Inspection and Complaint  
10 Procedure

11 (1) Each lobbying firm and each principal shall  
12 preserve for a period of 4 years all accounts, bills,  
13 receipts, computer records, books, papers, and other documents  
14 and records necessary to substantiate compensation reports.

15 (2) Upon receipt of a complaint based upon the  
16 personal knowledge of the complainant made pursuant to the  
17 Senate Rules or Rules of the House of Representatives, any  
18 such documents and records may be inspected when authorized by  
19 the President of the Senate or the Speaker of the House of  
20 Representatives, as applicable. The person authorized to  
21 perform the inspection shall be designated in writing and  
22 shall be a member of The Florida Bar or a certified public  
23 accountant licensed in Florida. Any information obtained by  
24 such an inspection may only be used for purposes authorized by  
25 law, this Joint Rule One, Senate Rules, or Rules of the House  
26 of Representatives, which purposes may include the imposition  
27 of sanctions against a person subject to this rule or Senate  
28 Rules or the Rules of the House of Representatives. Any  
29 employee who uses that information for an unauthorized purpose  
30 is subject to discipline. Any member who uses that information  
31 for an unauthorized purpose is subject to discipline under the

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1 applicable rules of each house.

2 (3) The right of inspection may be enforced by  
3 appropriate writ issued by any court of competent  
4 jurisdiction.

5 1.8 Questions Regarding Interpretation of this Joint  
6 Rule One

7 (1) A person may request in writing an informal  
8 opinion from the General Counsel of the Office of Legislative  
9 Services as to the application of this Joint Rule One to a  
10 specific situation. The General Counsel shall issue the  
11 opinion within 10 days after receiving the request. The  
12 informal opinion may be relied upon by the person who  
13 requested the informal opinion. A copy of each informal  
14 opinion that is issued shall be provided to the presiding  
15 officer of each house. A committee of either house designated  
16 pursuant to section 11.045(5), Florida Statutes, may revise  
17 any informal opinion rendered by the General Counsel through  
18 an advisory opinion to the person who requested the informal  
19 opinion. The advisory opinion shall supersede the informal  
20 opinion as of the date the advisory opinion is issued.

21 (2) Persons in doubt about the applicability or  
22 interpretation of this Joint Rule One may submit in writing  
23 the facts for an advisory opinion to the committee of either  
24 house designated pursuant to section 11.045(5), Florida  
25 Statutes, and may appear in person before the committee in  
26 accordance with section 11.045(5), Florida Statutes.

27 1.9 Effect of Former Joint Rule One

28 Every fine and penalty finally due and owing on or  
29 before December 31, 2005, under the Rules of the Senate or the  
30 House of Representatives or under former Joint Rules 1.1-1.9,  
31 with no appeal pending under such rules, is hereby ratified

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1 and preserved and shall be collected as previously finally  
2 determined. Every other obligation under former Joint Rule  
3 One, rescinded upon adoption of this Joint Rule One, is hereby  
4 waived and abolished. The obligations under Joint Rules 1.1,  
5 1.2, and 1.3 are to be enforced retroactively to January 1,  
6 2006, provided that substantial compliance with the provisions  
7 of former Joint Rules 1.1, 1.2, and 1.3 on or before the  
8 effective date of this Joint Rule One shall be deemed to be in  
9 compliance with any retroactive requirements of this Joint  
10 Rule One.

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